

REMARKS

Claims 1, 3, 5, 179-184, 186, 187, 189, 192, 193, 195, 201, 204-212, 222-227, 231-233, 241, 242, 244, 245, 250, 280-299, 303, and 305-308 are pending in this application. Applicants note with appreciation that claims 1, 5, 179, 181, 183, 184, 186, 187, 189, 192, 193, 195, 201, 204-212, 222-227, 231-233, 241, 242, 245, 250, 280-299, and 303-307 have been deemed allowable. Applicants have amended claim 308 to more particularly point out and distinctly claim what Applicants regard as their invention. In particular, Applicants have amended claim 308 to recite an isolated antibody comprising a CDR having an amino acid sequence of a VL CDR1 or VL CDR2 of the antibody P12F2, wherein the antibody immunospecifically binds to a RSV F protein. Support for the amendment to claim 308 is found in the specification, see, *e.g.*, page 46, lines 14-18, Table 2 at page 47 (as amended in the Preliminary Amendment Under 37 C.F.R. § 1.115 filed on December 5, 2001) and page 58, lines 16-19 of the specification. Applicants believe that the amendments are fully supported by the specification of the present application and do not constitute new matter. Upon entry of this Amendment, claims 1, 3, 5, 179-184, 186, 187, 189, 192, 193, 195, 201, 204-212, 222-227, 231-233, 241, 242, 244, 245, 250, 280-299, 303, and 305-308 will be pending and under examination.

Entry of the foregoing amendments and consideration of these remarks are respectfully requested.

1. FORMALITIES

Applicants acknowledge the Examiner's determination that all requirements for Correction of Inventorship under 37 C.F.R. §1.48(a) have been met.

Applicants also acknowledge that the Examiner has withdrawn the rejection of claims 3, 5, 281, and 283 under 35 U.S.C. §101 and the rejection of claims 261-63, 276, 284, and 287 under 35 U.S.C. §112, second paragraph.

2. THE REJECTION UNDER 35 U.S.C. §102 SHOULD BE WITHDRAWN

Claim 308 is rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Johnson, U.S. Patent No. 5,824,307 (hereinafter "Johnson"). Specifically, the Examiner

contends that Johnson discloses a humanized monoclonal antibody that binds to the RSV F protein and that contains a VL CDR3 having the amino acid sequence of the P12F2 antibody. The Examiner noted that Johnson does not disclose an antibody having a VL CDR1 or VL CDR2 (SEQ ID NOs: 21 or 22) of the P12F2 antibody.

In response, Applicants have amended claim 308 to recite an isolated antibody comprising a CDR having an amino acid sequence of a VL CDR1 or a VL CDR2 of the antibody P12F2, wherein the antibody immunospecifically binds to a RSV F protein. In view of this amendment, Applicants submit that Johnson fails to anticipate claim 308 because, as noted by the Examiner, Johnson does not teach an antibody comprising a VL CDR1 or a VL CDR2 of the P12F2 antibody. Accordingly, Applicants respectfully assert claim 308, as amended, renders the rejection under 35 U.S.C. §102 moot and respectfully request that the rejection be withdrawn.

3. OBVIOUSNESS-TYPE DOUBLE PATENTING REJECTION

Claim 180 is rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claim 10 of U.S. Patent No. 6,656,467 (“the ‘467 patent”). The Examiner contends that although the conflicting claims are not identical, they are not patentably distinct. The Examiner noted that SEQ ID NO:9 recited in claim 10 of the ‘467 patent is the same sequence as the SEQ ID NO:10 recited in present claim 180 and that, lacking any structural differences, the properties of the antibodies are expected to be the same.

Claims 3, 180, and 182 are rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 55-58 of U.S. Patent No. 6,818,216 (“the ‘216 patent”). The Examiner contends that although the claims are not identical, they are not patentably distinct from each other because claims 3, 180, and 182 of the present application are drawn to antibodies comprising SEQ ID NOS: 10, 19, and 20, and the conflicting claims are directed to compositions comprising antibodies having the same sequences.

In response, Applicants note that they intend to file two terminal disclaimers in the subject application at such time as the claims are otherwise deemed in condition for

allowance. Accordingly, Applicants respectfully request that the Examiner hold these rejections in abeyance until all of the claims have otherwise been deemed allowable.

CONCLUSION

Applicants believe that the present claims meet all of the requirements for patentability. Entry and consideration of the foregoing amendments and remarks into the file of the subject application is respectfully requested.

If a telephone interview would be of assistance in advancing prosecution of the subject application, Applicants' undersigned attorney invites the Examiner to telephone her at the number provided below.

Respectfully submitted,

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